



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5132

Introduced 1/29/2010, by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

20 ILCS 505/5.31 new
325 ILCS 5/2.01 new
325 ILCS 5/3

from Ch. 23, par. 2053

Amends the Children and Family Services Act and the Abused and Neglected Child Reporting Act. Requires the Department of Children and Family Services to investigate reports of abuse or neglect of a student with disabilities as it would reports of abuse or neglect of a child. Defines "student with disabilities" to mean a public school student between the ages of 18 and 21 years, inclusive to the day before the student's 22nd birthday, who is identified as having multiple disabilities and who is enrolled in an individualized education program. Effective immediately.

LRB096 18641 KTG 35274 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Children and Family Services Act is amended
5 by adding Section 5.31 as follows:

6 (20 ILCS 505/5.31 new)

7 Sec. 5.31. Student with disabilities. The Department shall
8 investigate reports of abuse or neglect of a student with
9 disabilities as it would reports of abuse or neglect of a
10 child. For purposes of this Section, "student with
11 disabilities" means a public school student between the ages of
12 18 and 21 years, inclusive to the day before the student's 22nd
13 birthday, who is identified as having multiple disabilities as
14 that term is defined in 34 CFR 300.8 (c) (7) and who is enrolled
15 in an individualized education program as that term is defined
16 in 34 CFR 300.320.

17 Section 10. The Abused and Neglected Child Reporting Act is
18 amended by changing Section 3 and adding Section 2.01 as
19 follows:

20 (325 ILCS 5/2.01 new)

21 Sec. 2.01. Student with disabilities. The Department shall

1 investigate reports of abuse or neglect of a student with
2 disabilities as it would reports of abuse or neglect of a
3 child. For purposes of this Section, "student with
4 disabilities" means a public school student between the ages of
5 18 and 21 years, inclusive to the day before the student's 22nd
6 birthday, who is identified as having multiple disabilities as
7 that term is defined in 34 CFR 300.8 (c) (7) and who is enrolled
8 in an individualized education program as that term is defined
9 in 34 CFR 300.320.

10 (325 ILCS 5/3) (from Ch. 23, par. 2053)

11 Sec. 3. As used in this Act unless the context otherwise
12 requires:

13 "Child" means any person under the age of 18 years, unless
14 legally emancipated by reason of marriage or entry into a
15 branch of the United States armed services.

16 "Department" means Department of Children and Family
17 Services.

18 "Local law enforcement agency" means the police of a city,
19 town, village or other incorporated area or the sheriff of an
20 unincorporated area or any sworn officer of the Illinois
21 Department of State Police.

22 "Abused child" means a child whose parent or immediate
23 family member, or any person responsible for the child's
24 welfare, or any individual residing in the same home as the
25 child, or a paramour of the child's parent:

1 (a) inflicts, causes to be inflicted, or allows to be
2 inflicted upon such child physical injury, by other than
3 accidental means, which causes death, disfigurement,
4 impairment of physical or emotional health, or loss or
5 impairment of any bodily function;

6 (b) creates a substantial risk of physical injury to
7 such child by other than accidental means which would be
8 likely to cause death, disfigurement, impairment of
9 physical or emotional health, or loss or impairment of any
10 bodily function;

11 (c) commits or allows to be committed any sex offense
12 against such child, as such sex offenses are defined in the
13 Criminal Code of 1961, as amended, and extending those
14 definitions of sex offenses to include children under 18
15 years of age;

16 (d) commits or allows to be committed an act or acts of
17 torture upon such child;

18 (e) inflicts excessive corporal punishment;

19 (f) commits or allows to be committed the offense of
20 female genital mutilation, as defined in Section 12-34 of
21 the Criminal Code of 1961, against the child; or

22 (g) causes to be sold, transferred, distributed, or
23 given to such child under 18 years of age, a controlled
24 substance as defined in Section 102 of the Illinois
25 Controlled Substances Act in violation of Article IV of the
26 Illinois Controlled Substances Act or in violation of the

1 Methamphetamine Control and Community Protection Act,
2 except for controlled substances that are prescribed in
3 accordance with Article III of the Illinois Controlled
4 Substances Act and are dispensed to such child in a manner
5 that substantially complies with the prescription.

6 A child shall not be considered abused for the sole reason
7 that the child has been relinquished in accordance with the
8 Abandoned Newborn Infant Protection Act.

9 The term "abused child" includes an abused "student with
10 disabilities" as that term is defined in Section 2.01 of this
11 Act.

12 "Neglected child" means any child who is not receiving the
13 proper or necessary nourishment or medically indicated
14 treatment including food or care not provided solely on the
15 basis of the present or anticipated mental or physical
16 impairment as determined by a physician acting alone or in
17 consultation with other physicians or otherwise is not
18 receiving the proper or necessary support or medical or other
19 remedial care recognized under State law as necessary for a
20 child's well-being, or other care necessary for his or her
21 well-being, including adequate food, clothing and shelter; or
22 who is abandoned by his or her parents or other person
23 responsible for the child's welfare without a proper plan of
24 care; or who has been provided with interim crisis intervention
25 services under Section 3-5 of the Juvenile Court Act of 1987
26 and whose parent, guardian, or custodian refuses to permit the

1 child to return home and no other living arrangement agreeable
2 to the parent, guardian, or custodian can be made, and the
3 parent, guardian, or custodian has not made any other
4 appropriate living arrangement for the child; or who is a
5 newborn infant whose blood, urine, or meconium contains any
6 amount of a controlled substance as defined in subsection (f)
7 of Section 102 of the Illinois Controlled Substances Act or a
8 metabolite thereof, with the exception of a controlled
9 substance or metabolite thereof whose presence in the newborn
10 infant is the result of medical treatment administered to the
11 mother or the newborn infant. A child shall not be considered
12 neglected for the sole reason that the child's parent or other
13 person responsible for his or her welfare has left the child in
14 the care of an adult relative for any period of time. A child
15 shall not be considered neglected for the sole reason that the
16 child has been relinquished in accordance with the Abandoned
17 Newborn Infant Protection Act. A child shall not be considered
18 neglected or abused for the sole reason that such child's
19 parent or other person responsible for his or her welfare
20 depends upon spiritual means through prayer alone for the
21 treatment or cure of disease or remedial care as provided under
22 Section 4 of this Act. A child shall not be considered
23 neglected or abused solely because the child is not attending
24 school in accordance with the requirements of Article 26 of The
25 School Code, as amended.

26 The term "neglected child" includes a neglected "student

1 with disabilities" as that term is defined in Section 2.01 of
2 this Act.

3 "Child Protective Service Unit" means certain specialized
4 State employees of the Department assigned by the Director to
5 perform the duties and responsibilities as provided under
6 Section 7.2 of this Act.

7 "Person responsible for the child's welfare" means the
8 child's parent; guardian; foster parent; relative caregiver;
9 any person responsible for the child's welfare in a public or
10 private residential agency or institution; any person
11 responsible for the child's welfare within a public or private
12 profit or not for profit child care facility; or any other
13 person responsible for the child's welfare at the time of the
14 alleged abuse or neglect, or any person who came to know the
15 child through an official capacity or position of trust,
16 including but not limited to health care professionals,
17 educational personnel, recreational supervisors, members of
18 the clergy, and volunteers or support personnel in any setting
19 where children may be subject to abuse or neglect.

20 "Temporary protective custody" means custody within a
21 hospital or other medical facility or a place previously
22 designated for such custody by the Department, subject to
23 review by the Court, including a licensed foster home, group
24 home, or other institution; but such place shall not be a jail
25 or other place for the detention of criminal or juvenile
26 offenders.

1 "An unfounded report" means any report made under this Act
2 for which it is determined after an investigation that no
3 credible evidence of abuse or neglect exists.

4 "An indicated report" means a report made under this Act if
5 an investigation determines that credible evidence of the
6 alleged abuse or neglect exists.

7 "An undetermined report" means any report made under this
8 Act in which it was not possible to initiate or complete an
9 investigation on the basis of information provided to the
10 Department.

11 "Subject of report" means any child reported to the central
12 register of child abuse and neglect established under Section
13 7.7 of this Act and his or her parent, guardian or other person
14 responsible who is also named in the report.

15 "Perpetrator" means a person who, as a result of
16 investigation, has been determined by the Department to have
17 caused child abuse or neglect.

18 "Member of the clergy" means a clergyman or practitioner of
19 any religious denomination accredited by the religious body to
20 which he or she belongs.

21 (Source: P.A. 94-556, eff. 9-11-05; 95-443, eff. 1-1-08.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.